APPEAL NO. 020202
FILED MARCH 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 20, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) sustained an injury in the form of an occupational disease, bilateral carpal tunnel syndrome, bilateral tendinitis in her wrists and arms, and a strain/sprain to her right arm and right shoulder; that the date of injury of the occupational disease is _____; that the respondent (carrier) is relieved of liability for the claimant's injury pursuant to Section 409.002 because the claimant failed to timely report her injury to her employer; that the claimant is not barred from pursuing workers' compensation benefits because of an election to receive benefits under a group health insurance policy; and that the claimant did not have disability because she did not sustain a compensable injury. In her appeal, the claimant essentially argues that the hearing officer's date-of-injury, notice, and disability determinations are against the great weight of the evidence. The appeal file does not contain a response to the claimant's appeal from the carrier.

DECISION

Affirmed.

The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury, the date when the claimant knew or should have known that her alleged injury may be related to the employment, is generally a question of fact for the hearing officer to resolve. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer's determinations that the date of injury is _____, and that the claimant did not report the injury to her employer timely are supported by the evidence. The hearing officer resolved the conflicts and inconsistencies in the evidence on the date-of-injury and notice determinations against the claimant and she was acting within her province as the finder of fact in so doing. The notice and date-of-injury determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the challenged determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the determination that the carrier is relieved of liability for the claimant's injury because of her failure to timely report her injury to her employer, we likewise affirm the determination that the claimant did not have disability. The existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16)

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Edward Vilano
Appeals Judge